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**Objection deadline:** November 15, 2010 at 4:00 p.m.  
**Hearing Date:** December 15, 2010 at 10:00 a.m.

UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

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In re:

Chapter 15 Case

FAIRFIELD SENTRY LIMITED, et al.,

Case No. 10-13164 (BRL)  
Jointly Administered

Debtors in Foreign Proceedings,

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FAIRFIELD SENTRY LIMITED et al. (In Official  
Liquidation), acting by and through the Foreign  
Representatives Thereof,

Adv. Proc. No. 10-03781-BRL  
SDNY No. 10-cv-06759-GBD

Plaintiff,

-against-

NORTHERN NAVIGATION AMERICA INC. and  
Beneficial Owners of the Accounts Held in the Name  
of Northern Navigation America Inc. 1-1000,

**NOTICE OF MOTION OF  
NORTHERN NAVIGATION  
AMERICA, INC. TO  
REMAND AND FOR  
ABSTENTION**

Defendants.

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TO: ALL COUNSEL OF RECORD AND  
THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK:

Northern Navigation America, Inc., named defendant in the above-captioned proceedings, respectfully moves the United States Bankruptcy Court for the Southern District of New York for an order, pursuant to 28 U.S.C. §§157(d), 1334, 1447, and 1452, Federal Rules of Bankruptcy Procedure 5011, and Rule 5011-1 of the Local Rules

of Bankruptcy Court, remanding the proceeding back to the forum initially chosen by plaintiffs, the Supreme Court of the State of New York, County of New York, where related actions initiated by Plaintiffs remain pending.

The basis for the motion is set forth in the accompanying Affirmation of Philip R. Schatz, which annexes papers in support of similar motions by other defendants that are here incorporated by reference. The motion should be granted because:

- a. Fairfield Sentry's claims do not arise under, or arise in a case under, the Bankruptcy Code as required by 18 U.S.C. §1334(b) and 28 U.S.C. §1452;
- b. Fairfield Sentry's claims are not related to its Chapter 15 proceeding or to the liquidation proceedings brought by the SIPC;
- c. Fairfield Sentry's removal was untimely because it was not done within 30 days of the filing of Fairfield Sentry's initial pleading as required by 28 U.S.C. §1446 and Bankr. Rule 9027;
- d. Fairfield Sentry's claims are subject to mandatory abstention under 28 U.S.C. §1334(c)(2) because, among other things, the claims are based on novel theories of New York State law that can and should be timely adjudicated by the Commercial Divisions of the New York Supreme Court – the court with the expertise to decide the claims, the court Fairfield Sentry itself initially selected, and the court already considering related actions by Fairfield Sentry; and
- e. Fairfield Sentry's claims are subject to discretionary abstention or equitable remand under 28 U.S.C. §§1334 (c)(1) and 1452(b) based, among other things, upon the unsettled nature of the claims, principles of comity, and defendants' rights to a jury trial on the claims.

Defendant has made no prior request to this Court or to any other court for the relief requested by this Motion.

This motion without prejudice to or waiver of any rights or defenses, including without limitation defenses based upon jurisdictional or service defects, which defendant intends to interpose in response to Fairfield Sentry's complaint, which has yet to be served.

WHEREFORE, Northern Navigation America, Inc. respectfully requests that the Court enter an order remanding the case to New York State court, and granting such other and further relief as the Court deems just and appropriate.

Dated: New York, New York  
October 8, 2010

Respectfully Submitted,

WROBEL & SCHATZ, LLP

By: \_\_\_\_\_/s\_\_\_\_\_  
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